1890-001 Chancery Causes: Jane Harber vs. Charles J. Taylor &c
Lee Co.

Burkhart

CA - Estate Dispute
T - Property

To the Hon. H. S. K. Morison, Judge of the Circuit Court for Lee County, Va.

Your oratrix, Jane Harber, humbly complaining would respectfully represent unto your honor that in the year 184 her father, Moses Taylor, a citizen of said county and State departed this life testate, seised and possessed of a large and valuable real estate, consisting of about 700 acres of land, lying and being in said county and State, on the waters of Sugarrun Creek and about 6 or 7 miles N. W. from Jonesville. Before he died the said decedent made and published his last will and testament, which was admitted to probate in the proper court of said county, whereby he gave the whole of his said real estate to his wife, Martha, for her natural life, and after her death to his two sons, Robert L. Taylor and Charles J. Taylor four acres each in fee, ~~out of the~~ said lands around the houses where they then respectfully lived; and the residue of his said lands, he, by his said will, directed to be equally divided among all his sons and daughters, including the said Robt L. & Charles J. Taylor.

Your oratrix married one Wm D. Harber, who on the day of 1883, departed this life. This marriage took place long years before the death of the said Martha Taylor, and was fruitful only for several children.

Your oratrix would further show your honor that the said wife of the said testator survived him and did not die until about the year 1820, and that he had nine children who were devisees under his said will, to wit: Charles J. Taylor^{1}, James H. Taylor^{2}, Wm. M. Taylor^{3}, Hiram A. Taylor^{4}, Robert S. Taylor^{5}, Mahala Taylor^{6}, Elizabeth Taylor^{7}, Hursey Ann Taylor^{8} and your oratrix^{9}

Your oratrix will also show unto your honor that all of said nine devisees except your oratrix and Chas. J. Taylor sold their undivided interest in said tract of land and that now Noble C. Burkhart and Charles J. Taylor are the owners of the same with the exception of your oratrix interest therein. Said land was never partitioned among said devisees and so your oratrix' interest has never been assigned to her. Said Burkhart and Taylor under claim of their several purchases from said devisees have for several years, before and ever since the death of your oratrix's husband, been in the possession of the whole of said land, denying the rights of your oratrix and refusing ever since her husband's death to render unto her any rents for the same.

Your oratrix will also show unto your honor that Robt. S. Taylor sold his interest in said land to John Harber and John Harber then sold the same interest to the Husband of your oratrix, Wm. D. Harber.

Your oratrix will also show unto your honor that prior to the death of her said husband ~~the~~ the said Burkhart and Taylor through a decision of the circuit court of said county, had a right to the possession, use and occupation of her share in said land, for by the law of this State and the circumstances of the case, her said husband had a life estate in her said interest in said land, which in a certain chancery cause instituted in the circuit court of Lee County by your oratrix and her said husband against the said Burkhart and Taylor, asking a partition of said land, it was decided in said cause by the court that your oratrix's husband had by deed duly executed, conveyed his entire interest in said land.

Your oratrix will also show

unto your honor that the Court when it decided that her said husband had made a deed to his said interest in said land, and hence had no cause of complaint in said suit, it did not pass upon the reversionary right of your oratrix therein. A copy of said decree is here filed and marked as exhibit "A".

Your oratrix will further show unto your honor that although her said husband may have sold and conveyed said two shares in said land as aforesaid, she did not have any knowledge of the same, nor did she join in the conveyance with him.

With these facts as aforesaid, all of which your oratrix alleges as being true, your oratrix is advised that she is entitled to one-ninth of said land in fee and also a dower interest in the one ninth purchased by her said husband from John Harber, and since the said Burkhart & Taylor have had the use and occupation of the same, receiving the benefits and profits arising therefrom, since her husbands death she is advised she is entitled to a reasonable rent from them or at least rents for a period of five years next preceding the institu- of this suit.

Now the prayer of your oratrix is that Noble C. Burkhart and Chas. J. Taylor be made parties defendants to this bill of Complaint; and each be required to answer fully and completely its several allegations on oath; that one-ninth of said land, her interest therein by reason of said will, and dower in the one-ninth purchased by her said husband, be duly assigned her out of said land; that a comr. be appointed to determine a fair cash rental value of her said interests in said land, since the death of her said husband; that the said Burkhart & Taylor be decreed to pay your oratrix whatever such comr. may find to be a fair cash rental value of said land for the time aforesaid. And may such further and general relief be granted your oratrix as the equity of her cause may be deemed meet and proper. May Spa. issue &c. ~~Instead of having~~

And she will ever pray &c.

E. H. Pennington,
P. Q.

E. W. I.

Code 1887 825 625
2-mine 465 ft 47

James Harber,

vs. } Bill in Chan

C. J. Taylor et als

A.	15 =	Paid
S.	3.00	
Tax	1.50	
Clerk say	8.50	$4.35 paid by
" "	1.68	bal paid 15 by Taylor
	$29.68	

1889 Sept 4th Rules Bill filed Spa executed & D. Writ

" 2nd day Rules D W Cnfd & Cause set for hearing.

" Sept. Continued

Decr. Decree Handed

Paid 1890 March Decree final.

650
850
168
11.68
4.35
7.33

Jane Harlan complt
vs.
C. J. Taylor et als Defts
} In Chancery.

The plaintiff in this cause having sold her interest in the land in the bill & proceedings mentioned to the defts., and on terms set out in a deed made said defts. it is agreed that this cause be dismissed at the costs of the said defts. ~~and for the collection of such costs execution may issue~~. And this cause is stricken from the docket.

Jane Hapken

vs } Decree final

Geo J. Taylor et als

Entered Chey O B
page 245
April 1st 1890.
J A L Hyatt C

Enter this
H.S.K.M
April 1st 1890

Jane Harber Plff
vs } In Chancery
W. J. Taylor et al Deft.)

This cause came on ~~again~~ in this day to be heard upon the bill of the complt. and exhibits filed there-with and was argued by counsel. On consideration of all which and for reasons appearing to the court it is adjudged, ordered and decreed that L. M. Cummins, D. O. Hardway Wm J. Brown and Edward Russell who are hereby appointed comms- for the purpose, do go upon the land in the bill and proceedings mentioned and lay off and assign to the plaintiff one full ninth of said land, taking into consideration in such assignment the quality, quantity, value of said land and the convenience of all parties interested If the same can be done, ~~and~~ without prejudice to said parties, said comm'rs will assign said plaintiffs interest in said land so as one half of the same ~~may~~ in quality & quantity may come off of that part as now oc-

occupied by N. C. Burkhart and the other half off of that part of said farm as now occupied by C. J. Taylor. And said commissioner will report their action to this court at a future term thereof. And this cause is continued

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Jane Harber

vs } Decree No. 1

C. J. Taylor et als

Entered Chay
O.B. page 237
Decr. 4th 1889.
J. A. S. Hyatt C

Enter this
Dec. 4th 1889.

Virginia

At a circuit Court Continued and held for Lee County at &c Decr. 4th 1889.

Jane Harber Plaintiff
vs } In Chcy.
C. J. Taylor et al Defendant

It is adjudged ordered and decreed that L. M. Carmical D. C. Woodward, W. J. Brown and Edward Russell, who are hereby appointed Commissioners for the purpose, do go upon the land in the Bill mentioned and lay off and assign to the Plaintiff one full ninth of said land, taking into Consideration in such assignment, the quality quantity and value of said land and the Conveniencies of all parties interested, if the same Can be done without prejudice to the parties, Said Commissioners will assign said Plaintiff interest in said land, so as one half the same in quality & quantity, may come off, of that part as now occupied by N. C. Burkhart, and the other half off, of that part of said farm as now occupied by C. J. Taylor. And said

Commissioners will report their action to this Court at a future term thereof and the Cause is Continued.

A Copy

4 Copies

Teste J. A. G. Hyatt C.

Rec'd of Taylor & Burkhart through E. W. Pennington two dollars in full of my fees in this cause this April 8" 1890

C. H. Kincaid D.S

Jane Harber

vs

C. J. Taylor et al

Copy of Decree

Executed by delivering a copy of the within Jan 9th 1890 L. M. Carmical V. C. Woodson W. J. Brown Edward Russelle

C. H. Kincaid D.S

for A. B. Murray S.S.C

Fee for copies & ex $1.68

Fee for delivering copies 2.00

entered on p99-

W. D. Harber & wife plffs.
vs } In Chancery
Chas. J. Taylor et al. Defts

This cause came on again this day to be heard on the the papers heretofore read the report of Commissioner Henry J. Morgan, with exceptions thereto, and was argued by counsel. On consideration whereof the plaintiffs exceptions to said report are so far overruled as they affect the title of the plaintiff W. D. Harber; it being satisfactorily shown that that the plaintiff Wm. D. Harber, by deed duly executed, conveyed his entire interest in the land in controversy to John Bowling. And the Court does not pass upon the reversionary right of the female plaintiff, Mrs. Jane Harber, not being fully satisfied of the sufficiency of the proff of her privy examination; and it is therefore adjudged, ordered and decreed that the bill be dismissed, but without prejudice to any of the defendants as between themselves, and that the defendants recover of the plaintiff W. D. Harber their costs and this cause is stricken from the docket.

A Copy
Teste J. A. G. Hyatt Clerk

W. D. Harbert wife
vs ½ Copy of Decree
C. J. Taylor etal

32 31 30 29 28 27 26 25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

Exhibit
"A"

Fee for copy 25¢

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon Noble C. Burkhart and Charles J. Taylor

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday in August next, being rule day to answer a bill in Chancery exhibited in our said Court against them by Jane Harbor

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.
This 29th day of July 1889, in the 114 year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

E.W.P.

Jane Harber
vs } Spa. in Chany
Chas. J. Taylor et als

To 1st Aug. Rules 1889

Executed on the 29th day of July, 1889, by delivering a written office copy of the within summons to Mrs. Burkhart the wife of the said Noble C. Burkhart and giving her information of its purport; he the said N. C. Burkhart not being found at his usual place of abode, and on the same day further executed by delivering a written office copy of the within summons to Mrs. Taylor, the wife of the said Charles J. Taylor, and giving her information of its purport, he the said Chas. J. Taylor not being found at his usual place of abode. Returned July 29" 1889.

A B Munsey S. L. C.

Rec'd of Taylor & Burkhart through E. H. Pennington one dollar my costs in this suit - this March 28/90

A B Munsey
by Wm P Horton